

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KENNETH DON TATE,)
)
Petitioner,)
)
vs.) Case No. CIV-09-0733-F
)
MIKE ADDISON, Warden,)
)
Respondent.)

ORDER

This action seeks habeas relief under 28 U.S.C. § 2254. Petitioner appears *pro se* and his pleadings are liberally construed.

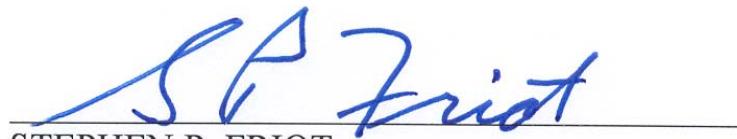
Magistrate Judge Valerie K. Couch entered her Report and Recommendation in this matter on November 30, 20009, recommending that respondent's motion to dismiss (doc. nos. 11-12) be granted and that the petition be dismissed as untimely. (Report at doc. no. 17.) Petitioner filed a timely objection to the Report, objecting to the magistrate judge's recommended findings and conclusions on the basis that he was senile and did not intentionally file his petition out of time. (Doc. no. 18.) Accordingly, the court reviews all objected to issues *de novo*.

After careful study of petitioner's objections, the Report, the record, and the relevant legal authorities, the court finds and concludes that it concurs with the magistrate judge's determinations. The court further finds that no purpose would be served by repeating the magistrate judge's determinations or by presenting any additional analysis here.

Accordingly, the Report and Recommendation of Magistrate Judge Couch is **ACCEPTED, ADOPTED, and AFFIRMED** in its entirety. Respondent's motion

to dismiss is **GRANTED** and the petition for a writ of habeas corpus is **DISMISSED** as untimely.

Dated this 6th day of January, 2010.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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